

**U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION
WASHINGTON, D.C. 20202**

POLICY DIRECTIVE

RSA-PD-91-08

RSM-1501 1/

DATE : **March 7, 1991**

TO : **STATE VOCATIONAL REHABILITATION AGENCIES
(GENERAL) STATE VOCATIONAL REHABILITATION
AGENCIES (BLIND) CLIENT ASSISTANCE PROGRAMS
RSA SENIOR MANAGEMENT TEAM**

SUBJECT : Definition of "Application" for Vocational Rehabilitation Services or
Independent Living Rehabilitation Services.

BACKGROUND : The law and the regulations for the State Vocational Rehabilitation (VR)
Program, the Client Assistance Program (CAP), and the State
Independent Living Rehabilitation Services (ILRS) Program refer to
"applicants," "persons who apply for services," "applications from
persons with handicaps," and "client applicants." These references are
found in:

34 CFR 361.30 and 365.30 -- Processing referrals and applications;

34 CFR 361.35 and 365.33 -- Certifications and reviews of ineligibility;

Section 101(a)(5) of the Act, 34 CFR 361.36 and 365.35 -- Order of
selection for service;

Section 101(a)(9) of the Act, 34 CFR 361.39 and 365.35 -- The case
record;

34 CFR 361.49 -- Protection, use and release of personal information;
and

Section 112 of the Act and 34 CFR Part 370 -- The Client Assistance
Program.

1/ Under development

In the VR program the term "applicant" is defined in the instructions to RSA-911 Case Service Report which reads:

Status 02 - Applicant. As soon as the referred individual (Status 00) signs a document requesting vocational rehabilitation services, he or she is placed into Status 02 and is designated as an applicant. Generally, the document will be an agency application form, but a letter signed by an individual who provides the minimum basic referral information and requests service should also be considered as a basis for placing the individual in Status 02.

Regulations for CAP, 34 CFR 370.4(b) define "client or client applicant" as an individual receiving or seeking services under the Act. RSA further indicates in PQ 4003 84-4, May 30, 1984, that "client applicant," under CAP, includes individuals in Status 02 of the VR program, all individuals who are seeking services from programs under the Act, and individuals who feel they were adversely terminated from programs under the Act.

There is no legal, regulatory or formalized definition for "application" or "applicant" in the ILRS program.

An individual's request for services, and the date of that request are critical issues in the VR and ILRS programs because (1) the designated State unit must assure expeditious and equitable handling of all referrals and applications, and (2) an individual's rights begin when an application for services is made. The only proof that an individual has requested services, or the date of this request, is a signed and dated document requesting services. Therefore, the following policy is established.

POLICY STATEMENT : For purposes of requesting VR services or ILRS, "application" means a request for VR services or ILRS, that is evidenced by a signed and dated document incorporated in the individual's case file. This evidence may be an agency form, an individual's letter, or other such equivalent document requesting services.

If the nature of the individual's disability precludes the individual from signing a document, acceptable evidence of a signature would include a witnessed mark, audio tape, TDD record or the application document signed by a parent, guardian or other representative of the individual with severe disabilities.

The above definition of "application" refers to requests for services of the VR and ILRS programs, and does not limit the regulatory definition of "client applicant" for purposes of CAP.

CITATIONS IN LAW : Sections 101(a)(6)(A) and 101(a)(9)(C) of the Rehabilitation Act of 1973 as amended through 1988.

CITATIONS IN REGULATIONS : 34 CFR 361.30, 361.39, 365.30 and 365.35

EFFECTIVE DATE : Upon issuance

EXPIRATION DATE : None

INQUIRIES : RSA Regional Commissioners

Commissioner
Rehabilitation Services Administration

INFORMATION QUERY

- ISSUE** : Is an applicant for Independent Living Rehabilitation Services (ILRS) under Title VII, Part A obliged to complete a written application form?
- The question from Region VII is based on a State agency's assertion that a counselor's note in the running case record indicating that an individual is requesting ILRS is a sufficient "application."
- Sub-issues that derive from the Region VII question are:
1. Does the "application form" need to be a separate document in the case record with the applicant's signature?
 2. Can the CRS properly ask whether the case file contains a signed application form?
 3. If the State unit does not require a signed application form, as asked for by the CRS but not required by policy, regulation or law, is the State unit in noncompliance, of its assurance to establish and maintain written standards and procedures to assure expeditious and equitable handling of referrals and applications?

DISCUSSION:

34 CFR 365.30 requires the State unit to establish and maintain written standards and procedures to assure expeditious and equitable handling of referrals and applications for ILRS from persons with severe handicaps.

34 CFR 365.33 requires the State unit to certify, in writing, the determination of eligibility or ineligibility of an applicant for ILRS; additionally, the State unit is required to notify the applicant in writing if he or she is determined ineligible for ILRS.

Eligibility for services under CAP begins when an individual is a client applicant. 34 CFR 365.4(b) defines "client or client applicant" as an individual receiving or seeking services under the Act. A client or client applicant is eligible to receive CAP services.

The only certain basis for determining that an individual has applied for services, when he or she applied for services, or that the individual has knowledge of having applied for services, is the existence of a dated document requesting services that is signed by the individual.

There is no official policy, regulation or law specifically defining, or prescribing the format for, an "application for services" in the ILRS program.

For the Title I program, the requirement for a signed application is contained in the instructions for the RSA-911 Case Service Report, under the definitions of caseload statuses:

Status 02. APPLICANT.

As soon as the referred individual (Status 00) signs a document requesting vocational rehabilitation services, he or she is placed into Status 02 and is designated as an applicant. Generally, the document will be an agency application form, but a letter signed by an individual who provides the minimum basic referral information and requests service should also be considered as a basis for placing the individual in Status 02.

OPTIONS

- : 1. Issue a PD defining "applicant," and requiring a signature or other option for those persons unable to sign their names.
- 2. Remove the requirement for a signature from the CRS question about the application form. This option would require a further definition of when an individual becomes a "client applicant" and eligible for client rights under the Act, and for CAP services.